

REMARKS

Claims 1-4 were examined and reported in the Office Action. Claims 1-4 are rejected. Claims 1 and 4 are amended. Claims 1-4 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 35 U.S.C. §112, Second Paragraph

It is asserted in the Office Action that claims 1-4 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended the claims to overcome the 35 U.S.C. §112, second paragraph rejections.

Applicant has amended claims 1 and 4 to overcome the 35 U.S.C. §112, second paragraph rejections. In particular, Applicant has amended claims 1 and 4 to overcome the antecedent basis rejection and deleted the term “seriousness” and replaced it with “a volume amount.”

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph rejections for claims 1-4 are respectfully requested.

II. 35 U.S.C. § 102(e)

It is asserted in the Office Action that claims 1-4 are rejected under 35 U.S.C. § 102(e), as being anticipated by U. S. Publication No. 2003/021903 issued to Porras et al. ("Porras"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131,

‘[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). ‘The identical invention must be shown in as complete detail as is contained in the ... claim.’ (Richardson v. Suzuki Motor

Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Porras discloses a plurality of service monitors 16a-16c, domain monitors 16d-16e and enterprise monitors 16f. From all of the monitors, Porras must collect data. That is, Porras does not teach, disclose or suggest the limitations contained in Applicant's amended claims 1 and 4 of "gathering local traffic data from each network device and integrating a plurality of the local traffic data to generate traffic data in the network level by a single traffic sensing module."

Therefore, since Porras does not teach, disclose or suggest all of Applicant's amended claims 1 and 4 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(e) has not been adequately set forth relative to Porras. Thus, Applicant's amended claims 1 and 4 are not anticipated by Porras. Additionally, the claims that directly depend on claim 1, namely claims 2-3, are also not anticipated by Porras for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejections for claims 1-4 are respectfully requested.

CONCLUSION

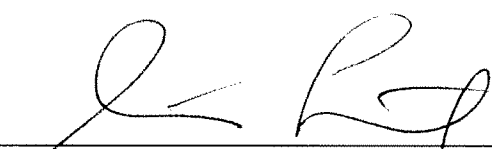
In view of the foregoing, it is submitted that claims 1-4 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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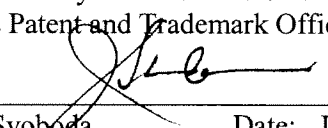
Dated: January 2, 2008

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.


Jean Svoboda

Date: January 2, 2008